

Case 1:07-cr-00707-ARR Document 41 Filed 04/29/11 Page 1 of 4

TRULINCS 59198004 - VEGA, ROMAN VLADIMIR - Unit: BRO-C-A

FROM: 59198004

TO:

SUBJECT: Judicial Council Complaint 04/26/11

DATE: 4/26/2011 2:16:19 PM

COMPLAINT FORM:

Mr Vega is advised that a conference was previously scheduled in this case for May 19, 2011 at 11:00 AM to address all outstanding issues including, if necessary, for the court to conduct a Faretta inquiry.

JUDICIAL COUNCIL FOR THE SECOND CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT

1. NAME OF COMPLAINANT:

Roman Vega

/s/(ARR)

USDS
5/4/11

Address:

Prisoner Number 59198-004
MDC Brooklyn
Box 329002
Brooklyn, New York 11232FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.cc: Aust
Defn's Counsel
APR 29 2011 M. Vog*

Phone:

N/A Prisoner.

BROOKLYN OFFICE

2. NAME OF JUDGE:

Allyne Ross

Court:

U.S. District Court, Eastern District of New York.

3. CASE NAME:

United States v. Roman Vega

Court:

E.D.N.Y. Brooklyn

Docket No:

CR-07-707 (ARR)

Party:

Yes. Defendant.

Attorney Name:

Matthew E. Fishbein
Attorney at Law
Debevoise and Plimpton, LLP
919 Third Avenue
New York, N.Y. 10022

4. LAWSUIT AGAINST JUDGE: No.

5. SUPPORTING FACTS OF COMPLAINT:

On April 3, 2011 the defendant sent a pro-se motion to the court requesting that he be substituted as counsel pro-se in the place of Michael Padden, Esq, of the Federal Public Defenders, and leave to withdraw an "unknowing" plea.

The request was made pursuant to Faretta v. California, 422 U.S. 806 (1975). On April 12, 2011 a hearing was held before Judge Allyne Ross. The court denied the request to proceed pro-se. The court appointed Counsel Fishbein (Supra). The Court essentially stated that the defendant could not represent himself as he did not have a proper understanding of English. Perhaps most curious, the court, by omission and refusal to address the issue, denied the motion to withdraw the plea as the court obviously was of the opinion the defendant understood what he was doing (otherwise the plea would have been vacated). This is an improper Hobson's choice. On one hand the court appears to state that the defendant has sufficient English capability to plead guilty, but at the same time lacks the proper grasp of English to defend himself.

The court was unclear as to the role of Fishbein. It appears Fishbein is now assigned counsel, yet the court stated that their was a possibility that Fishbein would be standby counsel at some time in the future. The defendant attempted to obtain a copy of the hearing transcript by writing to the court on April 14, 2011. The court never responded.

Counsel Fishbein, came to see the defendant in the Brooklyn Courthouse Lockup on April 12, 2011 and stated he would act as counsel or in the role of standby counsel, if Judge Ross changed her mind. Counsel Fishbein promised to contact the defendant and assist the defendant. On April 14, 2011 and April 20, 2011, the defendant wrote to counsel Fishbein, as well as sent e-mail requests, to activate the email link between the defendant's address in jail's Corrlinks/Trulincs system and counsel Fishbein so communications would commence.

Counsel Fishbein has not responded. Thus, with a sentence date rapidly approaching no action of substance has been taken on the motion to withdraw the plea. The defendant has not seen his P.S.R.. The defendant has not had an opportunity to respond to the P.S.R.. Counsel Fishbein is playing possum.

The defendant has been in pre-trial custody await disposition for over eight (8) years.

The defendants request for leave to proceed pro-se under Faretta, was "CLEAR" and "UNEQUIVOCAL" (emphasis added) Any attempt to categorize the defendant as illiterate under Faretta, and literate as to the plea is spurious.

The court has assigned counsel Fishbein who is a friend of the court. Fishbein and Judge Ross worked for the United States Attorneys Office at the same time. Any reasonable reviewer of fact would be taken aback by this curious relationship, especially, based upon the courts knowledge that the defendant has been waiting for eight (8) years, and having held the so called status hearing, given the defendant new counsel who employs the same possum tactic of not responding to the defendant that the substituted counsel engaged in.

This type of behavior by Judge Ross, are personal nature. When a Judge acts in an egregious nature to the detriment of the defendant, it is not "MERITS RELATED" (emphasis added) and is such personal animus as to call discretionary error into play. Judge Ross is forcing Fishbein down the throat of the defendant in a display of personal animus, the hubris of which is breathtaking.

WHEREFORE ALL PREMISES CONSIDERED; Judge Ross's actions call for an official investigation into her reasoning and her conflict regarding counsel Fishbein.

SWORN UNDER THE PENALTIES OF PERJURY pursuant to 28 U.S.C. ss:1746.

Dated: April 26, 2011

By: _____

Roman Vega, Pro-Se.
Reg No: 59198-004
MDC Brooklyn
Box 329002
Brooklyn, NY 11232.

TRULINCS 59198004 - VEGA, ROMAN VLADIMIR - Unit: BRO-C-A

copy

FROM: 59198004
TO:
SUBJECT: Letter 04/20/11 to Counsel Fishbein and Judge Ross
DATE: 4/20/2011 8:17:48 PM

April 20, 2011

Matthew E. Fishbein
Attorney at Law
Debevoise & Plimpton, LLP
919 Third Avenue
New York, NY 10022

and:

Hon. Allyne Ross
CHAMBERS
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201

Dear Counsel Fishbein and Judge Ross:

During the status hearing on April 12, 2011, I stated to Judge Ross, that I would not have an objection to a C.J.A. stand-by counsel as long as the counsel agrees to communicate with me, via surface mail, and through CORRLINKS/TRULINCS e-mail system which is established in Metropolitan Detention Center Brooklyn where I'm warehoused.

When I met with counsel Fishbein at the courthouse on April 12, 2011, I informed counsel that it would be my pleasure to accept him as stand-by C.J.A. lawyer under the same conditions as set forth supra. Counsel Fishbein had no objection to my request.

Unfortunately, my CORRLINKS/TRULINCS request sent to counsel Fishbein at mefishbein@debevoise.com has been waiting unactivated since 04/14/11 10:06 EST.

I would appreciate the court taking notice of these facts. The same dilatory tactics that have led to eight years (8) of torture by previous counsel are continued by counsel Fishbein.

If counsel Fishbein will not communicate on or before 4/25/11 I will fire him and demand new C.J.A. Counsel so I may be able to move my motion to withdraw the guilty plea. I note I have never seen my P.S.R.

I would appreciate a response forthwith. If these issues are not settled by May 1, 2011 I will file mandamus in the U.S. Court of Appeals for the Second Circuit, and communicate counsel Fishbein's ethical lapse to the First Department Disciplinary Committee.

Very truly yours,

Roman Vega
59198-004
MDC Brooklyn
P.O.Box 329002
Brooklyn, NY 11232

copy

FROM: 59198004
TO:
SUBJECT: Motion Letter to Judge Ross 4/14/11
DATE: 4/14/2011 11:28:41 PM

April 14, 2011

Hon. Allyne R. Ross
United States District Court Judge
U.S. District Court Chambers
225 Cadman Plaza, East
Brooklyn, NY 11201

and:

Matthew E. Fishbein, Esq
Attorney at Law
919 Third Avenue
New York, N.Y. 10022

Re: U.S.A. v. Roman Vega

DOCKET No: CR 07-707 (ARR)

LETTER MOTION FOR PRODUCTION OF TRANSCRIPT

Dear Judge Ross:

I am writing to inform you of my decision as to the Faretta motion.
I hereby elect to proceed pro-se, pursuant to Faretta.
I am pleased to have counsel Fishbein as the court's stand-by counsel.
Please issue an order directing the stenographer to produce a copy of the transcript from the April 12, 2011 hearing at government cost.
I have sent counsel Fishbein a copy of this Letter Motion as evidenced in the caption supra.
I thank you for your time and attention regarding this request.

Very truly yours,

Roman Vega

Roman Vega
59198-004
MDC Brooklyn
P.O.Box 329002
Brooklyn, NY 11232